

Filed for intro on 01/21/98
HOUSE BILL 2251 By
West

SENATE BILL 2294
By Rochelle

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29 and Title 62, relative to the regulation of private investigators, alarm system contractors, and private protective services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 62, is amended by deleting Chapters 26 and 35 in their entirety.

SECTION 2. Tennessee Code Annotated, Title 62, Chapter 32, is amended by deleting Part 3 in its entirety.

SECTION 3. Tennessee Code Annotated, Title 62, is amended by adding Sections 4 through 12 of this act, inclusive, as Part 1 of a new chapter thereto.

SECTION 4. This act shall be known and may be cited as, the "Tennessee Private Investigator, Alarm Systems Contractor and Private Security Contractor Act of 1998".

SECTION 5. The purpose of this chapter is to protect the public by establishing certification, licensure and/or registration requirements for any person who provides or offers to provide security services and/or investigative services to the general public.

SECTION 6. As used in this act, unless the context otherwise requires:

(1) "Commission" means the Tennessee security commission;

(2) "Commissioner" means the commissioner of commerce and insurance or the commissioner's designee;

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(3) "Person" means any individual, firm, association, company, partnership, corporation, non-profit organization, institution or similar entity; and

(4) "Principal corporate officer" means the chief executive officer, president, vice president, treasurer, secretary, or comptroller, as well as any other responsible officer or executive employee who performs functions for the corporation corresponding to those performed by the foregoing officers.

SECTION 7. (a) There is hereby created the Tennessee security commission.

(b) The commission shall consist of twelve (12) members appointed by the governor.

(1) Three (3) members shall be private security guards/officers;

(2) Three (3) members shall be alarms systems contractors;

(3) Three (3) members shall be private investigators; and

(4) Three (3) members shall be persons at least twenty-one (21) years of age who are not engaged in the occupations of private security guards/officers, alarms systems contractors, or private investigators. Each of the members selected pursuant to this subdivision shall be from a different grand division of the state.

(c) Of the members initially appointed, three (3) shall serve terms of one (1) year, three (3) shall serve terms of two (2) years, three (3) shall serve terms of three (3) years, and three (3) shall serve terms of four (4) years. Thereafter, all appointments shall be made for a term of four (4) years from the expiration date of the preceding term, except that appointments made to fill vacancies shall be made for the duration of the unexpired term.

(d) The governor may remove any member of the board for misconduct, incompetency, willful neglect of duty, or other just cause.

(e) Members shall hold over after the expiration of their term until a successor is appointed and qualified.

(f) Members may succeed themselves, but no member shall serve more than eight (8) continuous years.

(g) Interested parties may submit up to four (4) names of qualified persons to fill any initial appointments to the commission or any vacancies which may occur.

(h) In making appointments to the commission, the governor shall strive to ensure that at least one (1) person serving on the board is sixty (60) years or older and that at least one (1) person serving on the board is a member of a racial minority.

SECTION 8.

(a) The commission shall be responsible for administering and enforcing the provisions of this act.

(b) The commission may promulgate such rules as are reasonably necessary to effectuate the purposes of this act. All such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(c) The commission shall, as authorized by §4-5-205, appoint a committee of experts in the fields of alarm contracting, private investigation, and security guard and patrol service to advise the commission with respect to any contemplated rulemaking under this section. Such committee may make formal recommendations to the commission.

(d) The commission may seek relief at law or equity to restrain or enjoin any act or practice in violation of this chapter, or of any rule promulgated hereunder. Jurisdiction is conferred upon the chancery and circuit courts of this state to hear and determine such a suit. No bond shall be required for the prosecution of the suit or for the issuance of an injunction.

SECTION 9. The provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, govern all matters and procedures respecting the hearing and judicial review of any contested case, as defined therein, arising under this chapter.

SECTION 10.

(a) Notwithstanding any other provision of law to the contrary, all moneys collected pursuant to this act shall be deposited in the state treasury in a separate fund to be known as the "private investigator, alarm systems contractor and private security regulatory fund".

(b) Disbursements from such fund shall be made solely for the purpose of defraying expenses incurred in the implementation and enforcement of this act.

(c) No such expenses shall be payable from the general fund of the state.

(d) Any part of the private investigator, alarm systems contractor and private security regulatory fund remaining at the end of a fiscal year shall not revert to the general fund but shall be carried forward to defray future expenses until expended in accordance with the provisions of this act.

(e) Any funds remaining in the private security regulatory fund or in the fund of the state board of alarm contractors shall be transferred to the private investigator, alarm systems contractor and private security regulatory fund when the licensing requirements under this act become effective.

SECTION 11.

(a) All licenses, registrations and/or certifications issued pursuant to Title 62, Chapter 26, Chapter 32, Part 3, and Chapter 35 shall be subject to the provisions of this act, until their expiration.

(b) The commission shall have full authority to enforce the provisions of Title 62, Chapter 26, Chapter 32, Part 3, and Chapter 35 for acts and omissions occurring prior to the effective date of this act.

(c) This act does not affect rights or duties that matured, liabilities or penalties that were incurred, or proceedings begun before the effective date of this act.

SECTION 12. Any license, registration and/or certification issued under Title 62, Chapter 26, Chapter 32, Part 3, and/or Chapter 35 shall continue in effect until its expiration date. Such

license, registration and/or certification shall be renewed in the manner provided by this act and the rules promulgated hereunder.

SECTION 13. Tennessee Code Annotated, Title 62, is amended by adding Sections 14 through 38 as a new Part 2 of a new chapter thereto.

SECTION 14. As used in this part, unless the context otherwise requires:

(1) "Branch manager" means the individual who is immediately responsible for the operation of a branch office;

(2) "Branch office" means any office of an investigations company within this state other than its principal place of business within this state;

(3) "Identification card" means a pocket card issued by the commission evidencing that the holder has met the qualifications required by this part to perform the duties of a private investigator in this state;

(4) "Investigations company" means any person who engages in the business or accepts employment to obtain or furnish information with reference to:

(A) Crime or wrongs done or threatened against the United States or any state or territory of the United States;

(B) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputations or character of any person;

(C) The location, disposition or recovery of lost or stolen property;

(D) The cause or responsibility for fires, libels, losses, accidents, damages or injuries to persons or to property; or

(E) The securing of evidence to be used before any court, board, commission, officer or investigating committee;

(5) "Licensee" means any investigations company and private investigator licensed in accordance with the provisions of this part;

(6) "Private investigator" means any person who performs one (1) or more services as described in subdivision (4); and

(7) "Qualifying agent" means a principal corporate officer meeting the qualifications set forth in this part for operating an investigations company.

SECTION 15.

(a) Except as otherwise provided in this part, it is unlawful for any person to act as an investigations company or private investigator, without first having obtained a license from the commission.

(b) Every private investigator licensed in accordance with this part shall maintain a place of business at an investigations company which has been duly licensed by the commission.

(c) If an applicant for an investigations company license maintains more than one (1) place of business within the state, the applicant shall apply for and obtain a branch office license for each branch office, in addition to the company license for the principal place of business.

SECTION 16.

(a) An application for an investigations company license shall be filed with the commission on the prescribed form. The application shall include:

(1) The full name and business address of the applicant; or

(A) If the applicant is a partnership, the name and address of each partner; or

(B) If the applicant is a corporation, the name and address of the qualifying agent;

(2) The name under which the applicant intends to do business;

(3) The address of the principal place of business and all branch offices of the applicant within this state;

(4) As to each individual applicant; or, if the applicant is a partnership, as to each partner; or, if the applicant is a corporation, as to the qualifying agent, the following information:

(A) Full name;

(B) Date and place of birth;

(C) All residences during the immediate past five (5) years;

(D) All employment or occupations engaged in during the immediate past five (5) years;

(E) Three (3) sets of classifiable fingerprints;

(F) Three (3) credit references from lending institutions or business firms with whom the subject has established a credit record; and

(G) A list of all convictions and pending charges of the commission of a felony or misdemeanor in any jurisdiction;

(5) If the applicant is a corporation, the following information:

(A) The legal name of the corporation;

(B) The state and date of incorporation;

(C) The date the corporation qualified to do business in this state;

(D) The address of the corporate headquarters, if located outside of this state; and

(E) The names of two (2) principal corporate officers other than the qualifying agent, and the business address, residence address and the office held by each in the corporation; and

(6) Such other information as the commission may reasonably require.

(b) The application shall be subscribed and sworn to:

- (1) By the applicant, if the applicant is an individual;
- (2) By each partner, if the applicant is a partnership; or
- (3) By the qualifying agent, if the applicant is a corporation.

(c) Any individual signing the application must be at least twenty-one (21) years of age.

SECTION 17. Each individual applicant; or, if the applicant is a partnership, each partner; or, if the applicant is a corporation, the qualifying agent, shall:

- (1) Be at least twenty-one (21) years of age;
- (2) Be a citizen of the United States or a resident alien;
- (3) Not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared him competent;
- (4) Not be suffering from habitual drunkenness or narcotics addiction or dependence;
- (5) Be of good moral character; and
- (6) Pass an examination to be administered at least twice annually by the commission designed to measure knowledge and competence in the investigations field.

SECTION 18.

(a) Each applicant for a private investigator license shall:

- (1) Be at least twenty-one (21) years of age;
- (2) Be a citizen of the United States or a resident alien;
- (3) Not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared the applicant competent;
- (4) Not be suffering from habitual drunkenness or narcotics addiction or dependence;

(5) Be of good moral character; and

(6) Pass an examination to be administered at least twice annually by the commission, designed to measure knowledge and competence in the investigations field.

(b) The commission shall grant apprentice status, by correspondence, to applicants for an individual investigator's license; provided, the applicant is employed by an investigative company. The apprentice is enjoined from working without the direct supervision of a licensed investigator until such time as the apprentice's license application is fully processed.

(c) An apprenticeship may not commence until the sponsoring company has submitted a notice of intent to sponsor. Such notice shall be by written endorsement to the application of the apprentice.

(d) An apprentice status shall be limited to six (6) months and a person shall be able to apply for an apprentice status only once.

(e) Apprenticeship is intended to serve as a learning process. Sponsors shall assume a training status by providing direction and control of the apprentice. No sponsor may sponsor more than six (6) apprentices at one (1) time. The sponsor shall certify completion of training or the termination of the apprentice within fifteen (15) days of such action. The report shall be in such form as may be required by the commission, but shall include as a minimum the following:

(1) The inclusive dates of the apprenticeship;

(2) A narrative explaining the primary duties, types of experiences gained and the scope of the training received; and

(3) An evaluation of the performance of the apprentice and a recommendation regarding future licensing.

SECTION 19.

(a) Upon receipt of an application for a license, accompanied by a nonrefundable, nonproratable application fee as set by the commission, the commission shall:

(1) Conduct an investigation to determine whether the statements made in the application are true;

(2) Request that the Tennessee bureau of investigation compare the fingerprints submitted with the application to fingerprints filed with the Tennessee bureau of investigation. On subsequent applications, the Tennessee bureau of investigation shall, at the request of the commission, review its criminal history files, based upon the name, date of birth, sex and race, and social security number of an applicant whose fingerprints have previously been submitted to the bureau, for any new information since the date of the fingerprint comparison, and shall furnish any information thereby derived to the commission; and

(3) Submit the fingerprints to the federal bureau of investigation for a search of its files to determine whether the individual fingerprinted has any recorded convictions.

(b) The commission shall issue a license, in a form which the commission shall prescribe, to qualified applicants upon receipt of a nonrefundable, nonproratable fee as set by the commission.

(c) If an application for a license is denied, the commission shall notify the applicant in writing and shall set forth the grounds for denial. If such grounds are subject to correction by the applicant, the notice of denial shall so state and specify a reasonable period of time within which the applicant must make the required correction.

(d) The commission shall issue with every private investigator license an identification card that shall contain at least the following information:

- (1) Name;
- (2) Photograph;
- (3) Physical characteristics;
- (4) Private investigator license number; and
- (5) Expiration date of license.

(e) The identification card shall be issued in a wallet-sized card and shall be permanently laminated.

(f) The identification card shall be carried on the person of the licensee when engaged in the activities of the licensee.

(g) An application shall be accompanied by a notarized statement sworn to by the applicant as to the identity and number of private investigators employed by or affiliated with such investigation company. Making a false statement shall be punishable by a civil penalty not to exceed one thousand dollars (\$1,000) and assessment of the maximum application fee.

SECTION 20. Every license issued under this part shall be posted conspicuously in the licensee's principal place of business.

SECTION 21. No license issued under this part shall be transferable or assignable.

SECTION 22.

(a) A license, or renewal thereof, issued under this part, shall be valid for a period of two (2) years from the date of issuance. The commission shall provide each licensee with a renewal application form sixty (60) days prior to the expiration of the license.

(b) The fee for the timely renewal of a license shall be as set by the commission.

(c) A penalty as prescribed by the commission will be assessed on any renewal application postmarked after the expiration date of the license.

(d) No renewal application will be accepted more than thirty (30) days after the expiration date of the license.

(e) A renewal application shall be accompanied by a notarized statement sworn to by the applicant as to the identity and number of private investigators employed by or affiliated with such investigations company. Making a false statement shall be punishable by a civil penalty not to exceed one thousand dollars (\$1,000) and assessment of the maximum renewal fee.

SECTION 23.

(a) If the qualifying agent of a licensee ceases to perform his duties on a regular basis, the licensee shall:

(1) Within thirty (30) days, notify the commission by certified or registered mail; and

(2) Within three (3) months, obtain a substitute qualifying agent.

(b) The commission may, in its discretion, extend the period for obtaining a substitute qualifying agent for a reasonable time.

SECTION 24. A licensee shall notify the commission in writing within thirty (30) days of:

(1) Any change in the qualifying agent or principal corporate officers identified in its application for license;

(2) Any material change in the information previously furnished or required to be furnished to the commission;

(3) Any occurrence which could reasonably be expected to affect the licensee's right to a license under this part, including, but not limited to, any criminal charges placed against any licensee by any person. An investigative company must also, within thirty (30) days, notify the commission of any criminal charges placed against any investigator employed by or affiliated with such company; or

(4) Any judgment received by any person for punitive damages against any licensee.

SECTION 25.

(a) If the ownership of an investigations company changes, the new owner, if not already a licensee, may not operate that company more than thirty (30) days after the date of such change of ownership unless, within such thirty-day period, the new owner submits an application for a license. If such application is submitted, the new owner may continue to operate such company until the application has been finally determined by the commission.

(b) For good cause, the commission may extend the period for submitting an application pursuant to subsection (a) for a reasonable time.

SECTION 26.

(a) The commission may suspend, revoke or refuse to issue or renew any license hereunder upon finding that the holder or applicant has:

(1) Violated any provision of this part, or any rule promulgated hereunder;

(2) Practiced fraud, deceit, or misrepresentation;

(3) Knowingly and willfully made a material misstatement in connection with an application for a license or renewal;

(4) Been convicted by a court of competent jurisdiction of a felony or a misdemeanor, if the commission finds that such conviction reflects unfavorably on the fitness for such license; or

(5) Committed any act which would have been cause for refusal to issue such license or registration card had it existed and been known to the commission at the time of issuance.

(b) In addition to or instead of any other lawful disciplinary action under this section, the commission may assess a civil penalty not exceeding two thousand dollars (\$2,000).

(c) A license shall be subject to expiration and renewal during any period in which the license is suspended.

SECTION 27.

(a) No licensee or registrant shall be required to obtain any authorization, permit or license from, or pay any other fee or post a bond in, any municipality, county or other political subdivision of this state to engage in any business or activity regulated under this part.

(b) Notwithstanding subsection (a), a municipality, county or other political subdivision of this state may impose a bona fide business tax.

SECTION 28. The commission may negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed investigations companies and private investigators who meet or exceed the qualifications established in this part to operate across state lines under mutually acceptable terms.

SECTION 29. The commission's rules and regulations may incorporate and establish canons of ethics and minimum acceptable standards of practice for licensees.

SECTION 30. The commission shall provide a copy of this part and any rules promulgated hereunder as may be amended, to:

(1) Each licensee every two (2) years at no charge; and

(2) Any other person, upon request, for such reasonable fee as the commission may establish.

SECTION 31. No individual licensed as an investigations company or a private investigator in Tennessee may:

(1) In order to obtain employment, knowingly make a material misrepresentation as to his ability to perform the investigation required by a potential client;

(2) Make unsubstantiated monetary charges to a client for services not rendered or transportation not utilized;

(3) Knowingly make a false report to a client in relation to the investigation performed for such client;

(4) Continue an investigation for a client when it becomes obvious to the investigator that a successful completion of an investigation is unlikely without first so advising the client and obtaining the client's approval for continuation of the investigation; or

(5) Reveal information obtained for a client during an investigation to another individual, except as required by law.

SECTION 32.

(a) The provisions of this part do not apply to a public accountant and a certified public accountant, or the agent of either, performing duties relating to public accountancy.

(b) The provisions of this part do not apply to:

(1) A governmental officer or employee performing official duties;

(2) A person engaged exclusively in the business of obtaining and furnishing information regarding the financial rating or standing and credit of persons; or

(3) An attorney at law, or such attorney's agent, performing duties relating to the attorney's practice of law; provided,

(A) An investigator claiming exemption under this part must be an agent of the attorney acting within the scope of the investigator's employment for the attorney and at the attorney's direction. The duties performed for the attorney must relate directly to the attorney's practice of law; and

(B) Persons who hold themselves out as private investigators or as investigations companies and who advertise themselves as such shall not be exempt under this part.

(4) An insurance company, licensed insurance agent, or staff or independent adjuster performing investigative duties in connection with insurance business transacted;

(5) A private business employee conducting investigations relating to the internal affairs of such business;

(6) Any individual conducting investigative activities in connection with the repossession of a vehicle; or

(7) An individual conducting undercover investigations meeting the criteria set forth in Section 38 of this act.

(c) An insurance adjuster claiming an exemption to this part under subdivision (b)(4) shall be an employee of an insurance company duly licensed to do business in this state, a licensed insurance agent in this state or a staff employee of such an agent (or an independent adjuster performing investigative activity limited to matters directly pertaining to an insurance transaction). The employee of the insurance company, the insurance agent or employee thereof, or the independent adjuster or employee thereof, shall be acting within the scope of that person's employment with respect to the investigative activity.

SECTION 33.

(a) Licensees are required to provide the commission all records kept within the normal course of business, as they directly pertain to the exact nature of the complaint under investigation.

(b) The commission is granted authority to subpoena to deposition those persons or documents necessary to any investigation undertaken under this part, provided all

other means including, but not limited to, notification by return receipt registered United States mail, have been exhausted and have not produced the desired results.

SECTION 34.

(a) Effective beginning with the calendar year 1998, each individual licensee is required to complete six (6) hours of continuing professional education acceptable to the commission in each calendar year.

(b) The commission shall make every effort to ensure that at least one (1) seminar per year will be held in each grand division of the state and that each such seminar provides an opportunity to fulfill the continuing professional education requirements of this section. The commission is encouraged to require that at least one (1) hour per year of continuing professional education be devoted to ethics.

(c) The commission shall promulgate such rules as are necessary to carry out this section.

SECTION 35.

(a) Any person or company offering private investigator training for a fee must first be certified by the commission. The commission shall ensure that the instructors employed by the training company possess both the experience and academic credentials to ensure that the curriculum and instruction of the training company will be beneficial to those seeking to enter the profession. In order to qualify as a certified trainer/instructor, the trainer:

(1) Must be at least twenty-one (21) years of age;

(2) Has at least three (3) years of supervisory experience satisfactory to the commission with an investigative company or proprietary entity, or with any federal, United States military, state, county or municipal law enforcement agency; and

(3) Is personally qualified to conduct the training required by this part.

(b) A certified trainer may, in the trainer's discretion, instruct personally or use a combination of personal instruction, audio and visual training aids.

(c) To assist in the implementation of the training program, the certified trainer may use as an assistant trainer any person who:

(1) Is at least twenty-one (21) years of age; and

(2) Has at least one (1) year of experience with an investigative company or any United States military, state, county or municipal law enforcement agency.

(d) A certified trainer may be an employee of a private investigative or proprietary agency. If the applicant is not so employed, the applicant must be licensed as company under the provisions of this part.

(e) The certified trainer shall certify to the successful completion of the training and shall submit such certification to the commission.

(f) The training program, fees and requirements shall be established by rules promulgated by the commission.

SECTION 36. No action taken under this part shall preclude prosecution under §39-16-302.

SECTION 37. Any person violating the provisions of this part, or any rule promulgated hereunder, commits a Class A misdemeanor.

SECTION 38.

(a) An individual exempted by Section 32(b)(7) from the licensing requirements for private investigators shall be:

(1) Employed by and under the control of a licensed private investigation company;

(2) Employed by a private business entity, the internal affairs of which are the subject of investigation by the individual; and

(3) Engaged only in investigating the internal affairs of the private business entity by which they are employed.

(b) A private investigation company employing an individual exempted by Section 32(b)(7) shall be held responsible for the actions of that individual in such individual's capacity as an undercover investigator as if that individual was a licensed private investigator.

SECTION 39. Tennessee Code Annotated, Title 62, is amended by adding Sections 40 through 54 of this act, inclusive, as part 3 of a new chapter thereto.

SECTION 40. As used in this part, unless the context otherwise requires:

(1) "Alarm system" means any mechanical, electrical and/or electronic system designed to:

(A) Record, view, monitor, protect against, avoid or reduce the probability of personal or property loss or injury resulting from fire, smoke, heat, burglary, theft, shoplifting, pilferage or other losses of that type;

(B) Monitor, detect or prevent intrusion; or

(C) Detect and summon aid for other emergencies;

(2) "Alarm systems contractor" means any person, firm, association or corporation which sells, or attempts to sell, installs, services or monitors alarm systems, signal devices, fire alarms, burglar alarms, television cameras or still cameras used to detect fire, burglary, breaking and/or entering, intrusion, shoplifting, pilferage or theft;

(3) "Burglar alarm system" means an alarm or monitoring system which has the primary function of detecting and/or responding to emergencies other than fire;

(4) "Business entity" means each location from which alarm systems are sold, installed or serviced;

(5) "Certification" means the authority granted by the commission to do business as an alarm systems contractor;

(6) "Fire alarm system" means an alarm or monitoring system that is intended to respond to or detect fire, heat, smoke or other byproducts of combustion;

(7)

(A) "Good moral character" means an individual with high legal, moral and ethical values;

(B) The following shall be prima facie evidence that an individual does not have good moral character:

(i) Conviction by any local, state, federal or military court of any crime involving the illegal use, possession, sale, manufacture, distribution or transportation of a controlled substance, drug, or narcotic;

(ii) Conviction of a crime involving felonious assault;

(iii) Conviction of a crime involving unlawful breaking or entering, burglary, larceny, or arson;

(iv) Conviction as an habitual criminal; or

(v) An addiction to alcohol or a narcotic drug;

For purposes of this subsection, "conviction" means and includes the entry of a plea of guilty, plea of no contest or a verdict rendered in open court by a judge or jury;

(9) "Installation" means the installation, maintenance, service and repair of alarm systems;

(10) "Monitoring" means any off-site central monitoring station or location which receives electronic burglar alarm, closed circuit television, and/or fire alarm signals from multiple locations and notifies and/or dispatches other persons to emergency burglaries, hold-ups, thefts, vandalism, civil unrest, personal emergencies and/or fire alarm conditions; and

(11) "Qualifying agent" means any individual licensed by the commission whose qualifications have been demonstrated to the commission for overseeing and

supervising alarm systems contractor operations of any classification or combination of classifications.

SECTION 41.

(a) No person shall engage in or hold himself or herself out as engaging in the business of an alarm systems contractor without first being certified in accordance with this part.

(b) No person shall do business under this part unless the business entity has in its employ a qualifying agent who meets the requirements for licensing by the commission and who is, in fact, licensed under the provisions of this part. The qualifying agent, who is licensed under this part, shall be in a management position and be responsible for overseeing the quality of operations of the alarm systems contractor.

(c) In the event that the qualifying agent upon whom the business entity relies in order to do business ceases to perform such agent's duties as qualifying agent, the business entity shall notify the commission within ten (10) working days. The business entity must obtain a substitute qualifying agent within thirty (30) days after the original qualifying agent ceases to serve as qualifying agent unless the commission, in its discretion, extends this period for good cause for a period not to exceed three (3) months.

(d) The certification application shall designate at least one (1) qualifying agent who is or shall be licensed for each classification of service to be performed by the certified business entity. No qualifying agent who has been so designated may serve on behalf of or be employed by any other business entity. The certification application shall designate for which classification(s) the applicant is seeking a certification.

(e) No alarm systems contractor may participate in a joint venture to provide equipment or services which require certification under this part unless all parties to the joint venture are certified in accordance with this part.

(f) No contractor may subcontract the provision of equipment or services requiring a certification under this part to any uncertified person, firm, association or corporation except as provided in Section 42(7) of this act.

(g) No alarm systems contractor shall retain as an employee any person known not to be of good moral character.

(h) No person shall act as an alarm systems contractor under a certification without having a licensed qualified agent who holds a valid license in the category for which business is sought or work is to be done.

(i) No person shall act as a qualified agent without a valid license issued by the commission.

(j) No person shall sell and install, service, monitor or respond to alarm signals, signal devices, fire alarms, burglar alarms, television or still cameras used to detect fire, burglary, breaking and/or entering, intrusion, shoplifting, pilferage or theft in violation of this part or the rules adopted hereunder.

(k) No person shall advise anyone as to the need, quantity or quality of alarm systems and sell such systems unless certified, licensed or registered under this part.

SECTION 42. The following persons, firms, associations or corporations are specifically excluded from the requirements of this part:

(1) Equipment manufacturers not providing direct sales, monitoring and/or installation of service to system end users;

(2) Telephone installers/dealers not providing direct sales, monitoring, installation and/or maintenance service of alarm systems;

(3) Equipment distributors or suppliers not offering sales, monitoring or installation services directly to the system user;

(4) Retail stores or catalog sales not offering installation or consulting services to the system user;

- (5) Utility companies not installing, selling, servicing or monitoring alarm systems;
- (6) Sprinkler contractors not providing direct sales, monitoring, installation and/or maintenance service of alarm systems;
- (7) Contractors, including general, electrical, mechanical or HVAC contractors, licensed under Chapter 6 of this title, who do provide direct sales, monitoring, installation and/or maintenance service of alarm systems, but who derive less than fifty percent (50%) of their gross annual revenues from such business;
- (8) Architects and engineers not providing direct sales, monitoring, installation and/or maintenance service of alarm systems;
- (9) Individual property owners personally installing an alarm system within the owner's residence or other building not open to the general public;
- (10) Direct sellers and installers dealing exclusively with alarm systems for motor vehicles;
- (11) Locksmiths not providing direct sales, monitoring, installation and/or maintenance service of alarm systems. Locksmiths who install only mechanical locks or mechanical locks that have an integral alarm as part of their design without electrical components and electro-mechanical locks such as self-contained, low voltage exit alarm devices that secure a single entry point, which are not part of an integrated system, are also exempt from the requirements of this part;
- (12) A company which does not provide monitoring services and which has fifty million dollars (\$50,000,000) or more in annual sales and whose product requires no internal building wiring to install;
- (13) Medical alert or medical monitoring services to individuals made available by a hospital or an affiliate of a hospital; and
- (14) The monitoring and minor maintenance of alarm systems by a hospital or an affiliate of a hospital solely for its own use.

SECTION 43.

(a) In accordance with the provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, the commission shall promulgate such rules as may be reasonably necessary to implement and administer the provisions of this part in an efficient and effective manner, including rules to require submission of reports and information by certified companies, licensees and registrants under this part.

(b) The commission shall have the power to establish fees under Section 51 of this act sufficient to pay the annual expenses of administering this part.

(c) The commission shall determine minimum qualifications and/or establish minimum education, experience and training standards for applicants for certifications and licenses under this part, including those required for renewal.

(d) All persons employed by an alarm systems contractor shall apply for registration with the commission within thirty (30) days after employment and shall submit to a background check conducted by the commission, including investigation by the Tennessee bureau of investigation and the federal bureau of investigation.

(e) The commission shall conduct investigations regarding alleged violations and make evaluations as may be necessary to determine if certified companies, licensees and registrants under this part are complying with the provisions of this part. The commission may also investigate allegations regarding possible violations of this part by unregistered persons and shall seek enforcement under Section 53 of this act.

(f) The commission may investigate allegations regarding improper, inadequate and/or ineffective alarm system installations and seek enforcement under Section 53 of this act.

(g) The commission shall have the power to promulgate such rules and regulations, not inconsistent with the laws of Tennessee, as it shall deem necessary for internal management and control.

(h) The commission shall investigate and approve applicants to be certified, licensed or registered according to this part.

(i) The commission may deny, suspend or revoke any certification, license or registration issued or to be issued under this part to any applicant or licensee who fails to satisfy the requirements of this part or the rules and bylaws established by the commission.

(j) The commission may issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records and documents.

(k) The commission may enter into reciprocal agreements with other states whose laws are similar to this act; provided, such other state's law provides for liability insurance coverage, background checks, educational or experience requirements equal to or greater than those contained in this act. The commission through regulations shall establish registration and fee requirements for such reciprocity. Such fees shall be equal to or not less than those fees paid by Tennessee alarm contractors.

(l) The commission shall provide a procedure for the renewal of registrations issued under this part.

SECTION 44.

(a) The commission shall keep a register of all applications for certification, license and/or registration, showing on each the date of application, name, qualifications, place of business, place of residence and whether a license or registration was granted or reused.

(b) The books and register of the commission shall be prima facie evidence of all matters recorded therein.

SECTION 45.

(a) All alarm systems contractor employees with access to records, diagrams, plans or other sensitive information pertaining to monitored, installed or proposed alarm systems shall be registered with the commission.

(b) In accordance with the provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, the commission shall promulgate rules to establish an appropriate system of employee classifications and registration.

(c) An alarm systems contractor may not employ any employee required to be registered with the commission unless the employee is properly registered with the commission in compliance with subsection (d).

(d) All alarm systems contractors, within thirty (30) working days of the beginning of employment of any employee, shall furnish the commission with the following:

- (1) Set(s) of classifiable fingerprints on standard FBI/TBI applicant cards;
- (2) Recent color photograph(s) of acceptable quality for identification; and
- (3) Statements of any criminal records in each area where the employee has resided within the immediately preceding forty-eight (48) months.

(e) Upon receipt of an application, the commission shall cause an FBI/TBI background investigation to be made, during which the applicant shall be required to show that:

- (1) Such applicant is at least eighteen (18) years of age;
- (2) Such applicant is of good moral character; and
- (3) Registration of an employee shall be for one (1) year and shall be subject to annual renewal.

SECTION 46.

(a) Anyone desiring to be licensed as a qualifying agent shall make written application to the commission on such forms as are prescribed by the commission. The application shall be accompanied by an application fee as set by the commission.

(b) An applicant shall meet all of the requirements for a registered employee as indicated in Section 45(e) of this act. Application shall be accompanied by the documents required for employee registration as detailed in Section 42(d) of this act.

(c) An applicant for qualifying agent shall meet the following combination of experience and educational requirements:

(1) The applicant must hold a four-year baccalaureate degree in electrical engineering from an accredited university or college acceptable to the commission with at least two (2) years actual experience in the alarm industry; or

(2) The applicant must hold an associates degree in engineering technology from an accredited two-year technical college acceptable to the commission with at least four (4) years actual experience in the alarm industry; or

(3) The applicant must hold current certification by a national training program approved by the commission in the field of work to be installed, serviced or monitored and have at least five (5) years of working experience in the alarm industry covering the actual installation of alarms.

(d) If the application is satisfactory to the commission, the qualifying agent shall be entitled to an examination to determine such agent's qualifications. This examination may be written and/or oral. The commission shall be entitled to charge each applicant an examination fee as set by the commission for each written and/or oral examination.

(e) If the results of the examination of any applicant shall be satisfactory to the commission, then it shall issue to the applicant a license as a qualified agent in this state. The commission shall state the classifications in which the applicant is qualified to engage.

(f) A license as a qualifying agent shall expire on the last day of the twelfth month following its issuance or renewal, and shall become invalid on such date unless renewed.

(g) Renewal notices shall be mailed to the last known address of the qualified agent ninety (90) days before the expiration date of the license. Such renewal must be received in the office of the commission prior to the expiration of such license.

(h) It shall be the duty of the commission to notify every person registered hereunder by mail to the last known address of the date of expiration of such person's certificate of license and the amount of fee required for its renewal for one (1) year; such notice shall be mailed in accordance with this section.

(i) The fee to be paid for the renewal of a certificate of license after the expiration date shall be increased ten percent (10%) for each month or fraction of a month that payment for renewal is delayed; provided, the maximum fee for a delayed renewal shall not exceed twice the normal fee.

(j) No qualifying agent shall be qualified to receive a renewal license when such agent has been in default in complying with the provision of this part for a period of one (1) year, and in such event, the qualifying agent, in order to qualify under the law, shall make a new application as in the case of the issuance of the original license.

(k) The commission shall not grant renewal of a qualifying agent license until such agent has received satisfactory evidence of continuing education during the previous year. The commission shall promulgate rules to establish minimum satisfactory standards of continuing education.

(l) The commission may, after notice and an opportunity for hearing, suspend, revoke or deny renewal of a license to a qualifying agent who is a qualifying agent for a person, firm, association or corporation which has had its certification suspended or revoked under Section 52 of this act. The commission shall in all cases before hearing

any charges against any registrant furnish a written copy of the charges against the accused, including notice of the time and place where the charges will be heard, and give reasonable opportunity for the accused to be present and offer any evidence the accused may wish. The accused has the right to an attorney. The revocation or suspension of license shall be in writing, stating the grounds upon which the commission's decision is based. The aggrieved person shall have the right to appeal from such decision.

(m) No qualifying agent may be the qualifying agent for more than one (1) business location.

SECTION 47.

(a) Anyone desiring to be certified as an alarm systems contractor shall make written application to the commission on such forms as are prescribed by the commission. The application shall be accompanied by an application fee as set by the commission. An alarm systems contractor shall:

- (1) Have a regular place of business at a permanent fixed location;
- (2) Have a business license or licenses for the city and county in which the business is located;
- (3) Provide proof of insurance as required by Section 48(a) of this act;
- (4) Submit an application for certification with the notarized signature of a qualified agent licensed by the commission for the classifications of alarm systems being applied for; and
- (5) Submit applications for registration of all employees on forms provided by the commission as required by Section 45(d) of this act and accompanied by registration fees as required by Section 51(a)(5) of this act.

(b) Applications for certification shall be on forms as prescribed by the commission. The application shall disclose any and all persons, firms, associations,

corporations or other entities that own or control a ten percent (10%) or greater interest in the applicant. The commission may require FBI/TBI background checks and other information as deemed necessary by the commission from any individual, firm or business owning or controlling ten percent (10%) or greater interest in the applicant and may at the commission's discretion withhold certification until such information is satisfactorily produced and verified.

(c) In accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, the commission shall promulgate rules which establish uniform criteria to govern issuance by the commission of the classifications required by Sections 46(e) and 49(b) of this act.

(d) An alarm systems contractor may bid on a contract requiring work in some classification(s) other than the one(s) in which such alarm systems contractor is licensed, if and only if such work is incidental or supplemental to the performance of work in which such alarm systems contractor is licensed to engage.

SECTION 48.

(a) No certification shall be issued under this part unless the applicant files with the commission evidence of insurance as follows: a policy of liability insurance providing for the following minimum coverage:

(1) One hundred thousand dollars (\$100,000) because of bodily injury or death of one (1) person as a result of the negligent act or acts of the principal insured or the principal insured's agents, operating in the course and scope of such agents' employment;

(2) Subject to such limit for one (1) person, three hundred thousand dollars (\$300,000) because of bodily injury or death of two (2) or more persons as the result of the negligent act or acts of the principal insured or the principal insured's agent operating in the course and scope of such agent's agency; and

(3) One hundred thousand dollars (\$100,000) because of injury to or destruction of property in the course and scope of such agent's agency.

(b) Every certified company shall at all times maintain on file with the commission certificates of insurance and surety bond as required by this part in full force and effect, and, upon failure to do so, the certification of such contractor shall be automatically suspended and shall not be reinstated until an application, in the form prescribed by the commission, is filed, together with insurance certificates and a proper surety bond.

SECTION 49.

(a) The certification, when issued, shall be in such form as may be determined by the commission and shall state:

- (1) The name of the certified company;
- (2) The name under which the certified company is to operate;
- (3) The qualifying agent; and
- (4) The number and expiration date of the certification.

(b) There shall be four (4) classifications of alarm systems contractor: "burglar alarm systems," "fire alarm systems," "monitoring," and "closed circuit television." Alarm systems contractors may be certified in one (1) or more classifications.

(c) After issuance, the certification shall at all times be posted in a conspicuous place in the place of business of the certified company. A certification issued under this part is not assignable.

(d) All alarm systems contractors shall permanently display their certification number on all advertising, service vehicles, correspondence, business cards, letterheads and the like.

(e) No certified company shall engage in any business regulated by this part under a name other than the certification name or names which appear on the certificate issued by the commission.

(f) Any branch office of an alarm systems contractor shall be properly certified. A separate certification, stating the location and qualifying agent, shall be posted at all times in a conspicuous place in each branch office. Every business covered under the provisions of this part shall file in writing with the commission the address of each of its branch offices. All certified branch offices shall notify the commission in writing, within thirty (30) working days after the establishment, closing or changing of the location of any branch office. A qualifying agent may not be responsible for more than one (1) branch office of an alarm system contracting business. Each business location shall be certified.

SECTION 50.

(a) Each company certification, qualifying agent license and employee registration shall expire on the last day of the twelfth month after its issuance or renewal, and shall become invalid on such date unless renewed.

(b) Renewal notices shall be mailed ninety (90) days before the expiration date of the certification. Such renewal shall be received in the office of the commission before the expiration of such certification.

(c) It is the duty of the commission to notify by mail every person certified of the date of expiration of such person's certification and the amount of fee required for its renewal for one (1) year; such notice shall be mailed in accordance with this section.

(d) Applications for certification and renewal of certification shall list all persons required to be licensed in accordance with Section 41(a) of this act.

(e) The fee to be paid for the renewal of a certification after the expiration date shall be increased ten percent (10%) for each month or fraction of a month that payment for renewal is delayed; provided, the maximum fee for a delayed renewal shall not exceed twice the normal fee.

(f) No alarm systems contractor shall be qualified to receive a renewal certification when such alarm systems contractor has been in default in complying with the provisions of this part for a period of one (1) year, and, in such event, the alarm systems contractor, in order to qualify under the law, shall make a new application as in the case of the issuance of the original license.

SECTION 51.

(a) The commission may establish and charge reasonable application, certification, registration and license fees as follows:

(1) A nonrefundable application fee for a certification as alarm systems contractor;

(2) Upon approval of application, a certification fee;

(3) An annual renewal certification fee;

(4) A nonrefundable application fee to include the cost of an FBI/TBI background check for a qualifying agent's license;

(5) Upon approval of the commission of a qualifying agent's license, an annual license fee;

(6) A nonrefundable application fee to include the cost of an FBI/TBI background check for an employee registration; and

(7) A non-refundable annual registration fee set by the commission.

(b) The total amount of fees annually established by the commission shall cover the direct and indirect anticipated expenses of the commission for such year.

SECTION 52.

(a) Any person may prefer charges in writing to the commission against any certificate holder, licensee, registrant or other person, firm or business offering alarm systems and/or services in violation of this part.

(b) The commission may, after notice and an opportunity for hearing, suspend or revoke a certification or license issued under this part if it is determined that the licensee or certified person has:

(1) Made any false statement or given any false information in connection with any application for a license or for the renewal or reinstatement of a license;

(2) Violated any provision of this part;

(3) Violated any rule promulgated by the commission pursuant to the authority contained in this part;

(4) Been convicted of any crime indicating lack of good moral character;

(5) Failed to correct business practices or procedures that have resulted in a prior reprimand by the commission;

(6) Impersonated, or permitted or aided and abetted any other person to impersonate, a law enforcement officer of the United States, this state, or any of its political subdivisions;

(7) Engaged in, or permitted any employee to engage in, any alarm contracting business when not lawfully in possession of a valid certification and/or license issued under the provisions of this part;

(8) Been convicted on a burglary, aggravated burglary, especially aggravated burglary, assault, battery or kidnapping;

(9) Been found guilty by the commission of misconduct, gross negligence and/or incompetence or committed any other act which is a ground for the denial of an application for a certification or a license under this part; or

(10) Failed to maintain insurance and bond as required by this part.

(c) The commission shall have the power to revoke or suspend any certification or license or renewal granted by it for any of the reasons stated in this section, or for a failure to observe the terms and conditions of any certification, license or renewal.

(d) The commission may refuse to issue or renew a certification or license to any person, firm or corporation for lack of financial stability, misconduct, gross negligence, lack of expertise, submission of false evidence with regard to application of license or renewal, conviction of a felony, and any other conduct which constitutes improper, fraudulent or dishonest dealing or violation of this part.

SECTION 53.

(a) The commission may, when the commission deems appropriate, seek such civil remedies at law or equity to restrain or enjoin any unauthorized practice or other violation of this part.

(b) Any person, firm or corporation which engages or offers to engage in contracting without a certification as required by Section 41 of this act, or who violates the terms and conditions of any certification, license or renewal thereof granted by the commission pursuant to this part, shall be subject to a civil penalty of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) per occurrence. Any person, firm or corporation which engages or offers to engage in contracting without a certification as required by Section 41 of this act shall be ineligible to apply for such certification until six (6) months after such violation has occurred.

(c) In addition to revocation or suspension of a certification or license under Section 52 of this act, a civil penalty of not more than five thousand dollars (\$5,000) may be assessed by the commission against any person who violates any provision of this part, or any rule of the commission adopted pursuant to this part. In determining the amount of any penalty, the commission shall consider the degree and extent of harm caused by the violation.

SECTION 54.

(a) Counties and municipalities are hereby prohibited from offering services as an alarm systems contractor to the general public except as follows:

(1) Counties and municipalities may provide those services that would normally be provided by an alarm systems contractor for facilities that are wholly owned and occupied by that county or municipality; and

(2) Counties and municipalities may provide monitoring and/or response services to alarm systems when deemed in the best public interest; provided,

(A) No charge is made by the county or municipality for such service unless the county or municipality was charging for the service on or before July 1, 1991;

(B) Use of local governmental services shall not be mandatory; and

(C) Response by local law enforcement, firefighters and/or other emergency personnel may not be conditional upon use of such services.

Notwithstanding any language of subdivision (a)(2)(A) to the contrary, no county or municipality shall impose or collect any charge for responding to a false alarm occasioned exclusively by a violent act of nature.

(b) No county or municipality shall enact any resolution or ordinance or promulgate any rules or regulations relating to the licensing of alarm businesses or alarm systems contractors required to be licensed under this part.

(c) Any provision of any resolution or ordinance or rules or regulations of any county or municipality requiring the certifying and/or licensing of an alarm business or its employees shall be superseded by this part and no longer be effective.

(d) The provisions of this part are not, however, intended to and do not prevent the legally constituted authority of any county or municipality by legislation, rules or regulations, and within the police power of such county or municipality, from requiring alarm businesses and/or alarm agents to register their names, addresses and license certificate numbers with the county or municipality within which they operate. Such

county or municipality may also require that alarm businesses give reasonable notice of termination of licenses and/or agents. No fee may be charged nor may any application be required by any county or municipality for such registration.

(e) Nothing in this part shall be construed to prohibit municipalities or counties from enacting and imposing a penalty for a false alarm; provided, that such penalty may not exceed twenty-five dollars (\$25.00) for each false alarm.

SECTION 55. Tennessee Code Annotated, Title 62, is amended by adding Sections 56 through 94 of this act, inclusive, as Part 4 of a new chapter thereto.

SECTION 56. As used in this part, unless the context otherwise requires:

(1) "Armed security officer/guard" means a security officer/guard who at any time wears, carries, possesses, or has access to a firearm, or any facsimile of any firearm which may leave the impression that such person is armed, and who works in plainclothes or wears dress of a distinctive design or fashion, or dress having any symbol, badge, emblem, insignia or device which identifies or tends to identify the wearer as a security officer/guard;

(2) "Branch manager" means the individual who is immediately responsible for the operation of a branch office;

(3) "Branch office" means any office of a contract security company within this state other than its principal place of business within this state;

(4) "Certified trainer" means any individual certified by the commission as qualified to administer and certify to successful completion of the minimum training requirements prescribed by this part for a security guard/officer;

(5) "Contract security company" means any person engaging in the business of providing, or undertaking to provide, a security guard and patrol service on a contractual basis for another person;

(6) "Licensee" means any contract security company licensed in accordance with the provisions of this part;

(7) "Principal corporate officer" means the chief executive officer, president, vice president, treasurer, secretary or comptroller, as well as any other responsible officer or executive employee who performs functions for the corporation corresponding to those performed by the foregoing officers;

(8) "Proprietary security organization" means any person or department thereof which employs a security guard/officer solely for such person in an employer/employee relationship;

(9) "Qualifying agent" means a principal corporate officer meeting the qualifications set forth in this part for operating a contract security company;

(10) "Qualifying manager" means an individual designated by a proprietary security organization to be responsible for compliance with the provisions of this part on behalf of such organization;

(11) "Registrant" means an individual who holds a valid registration card;

(12) "Registration card" means a pocket card issued by the commission evidencing that the holder has met the qualifications required by this part to perform the duties of a security guard/officer in this state;

(13) "Security guard/officer" means an individual employed by a contract security company or a proprietary security organization to perform any function of a security guard and patrol service;

(14) "Security guard and patrol service" means protection of persons and/or property from criminal activities, including, but not limited to:

(A) Prevention and/or detection of intrusion, unauthorized entry, larceny, vandalism, abuse, fire or trespass on private property;

(B) Prevention, observation or detection of any unauthorized activity on private property;

(C) Enforce rules, regulations or local or state laws on private property;

(D) Control, regulation or direction of the flow or movements of the public, whether by vehicle or otherwise on private property; or

(E) Street patrol service;

(15) "Street patrol service" means the utilization of foot patrols, motor patrols, or any other means of transportation in public areas or on public thoroughfares in order to serve multiple customers or facilities. The term does not apply to:

(A) A management supervisor moving from one (1) customer or facility to another to inspect personnel; or

(B) A security guard/officer traveling from one (1) facility to another to serve the same customer with multiple facilities;

(16) "Sworn law enforcement officer" means any individual who derives plenary or special law enforcement powers (such as the power of arrest) from, and is an employee of, a federal, state, or local government agency or instrumentality;

(17) "Unarmed security officer/guard" means a security officer/guard who never wears, carries, or has access to a firearm, or any facsimile of a firearm, which may leave the impression that such person is armed with a firearm, but who may carry other non-lethal devices as prescribed herein with the proper certification, and who works in plainclothes or wears dress of a distinctive design or fashion, or dress having any symbol, badge, emblem, insignia, or device which identifies or tends to identify the wearer as a security officer/guard; and

(18) "Undercover agent" means an individual hired by another person, through a contract security company to perform a job in and/or for that person, and while

performing such job, to act as an undercover employee, independent contractor, or operative of such person, but under the supervision of such contract security company.

SECTION 57.

(a) The provisions of this part do not apply to:

(1) A government officer or employee performing official duties;

(2) A consumer reporting agency, as defined by the Federal Fair Credit Reporting Act;

(3) An attorney at law, or his agent, performing duties relating to the attorney's practice of law;

(4) An insurance company, agent, broker or adjuster performing investigative duties in connection with insurance business transacted;

(5) A holder of a purchase money security interest, or his agent, repossessing the personal property in which such interest is held;

(6) A private business employee conducting investigations relating to the internal affairs of such business;

(7) A full-time sworn law enforcement officer receiving compensation for services as a guard, patrolman or watchman under a contract with a private business which has met the requirements of this part; or

(8) An unarmed employee, whether uniformed or nonuniformed, in the course and scope of employment of a hospital who exceeds all training requirements established in Section 72 of this act, by having received not less than twelve (12) classroom hours of training. The course curriculum for such training shall be on file with the commission.

(b)

(1) The provisions of Section 72(a) of this act, only, shall not apply to a person employed as an unarmed security guard/officer by a proprietary security organization.

(2) For the purposes of this subsection, an unarmed security guard/officer shall not carry a weapon of any kind.

(3) It is the intention of the general assembly that unarmed proprietary security guards/officers whose primary duties involve contact with the public should have training in the areas of legal powers and limitations, and of emergency procedures as deemed necessary by their employers. The commission may provide such employers information concerning these areas.

SECTION 58. Except as otherwise provided in this part, it is unlawful for any person to act as a contract security company without having first obtained a license from the commission.

SECTION 59.

(a) An application for a contract security company license shall be filed with the commission on the prescribed form. The application shall include:

(1) The full name and business address of the applicant; or

(A) If the applicant is a partnership, the name and address of each partner; or

(B) If the applicant is a corporation, the name and address of the qualifying agent;

(2) The name under which the applicant intends to do business;

(3) The address of the principal place of business and all branch offices of the applicant within this state;

(4) As to each individual applicant, or, if the applicant is a partnership, as to each partner, or, if the applicant is a corporation, as to the qualifying agent, the following information:

- (A) Full name;
 - (B) Date and place of birth;
 - (C) All residences during the immediate past five (5) years;
 - (D) All employment or occupations engaged in during the immediate past five (5) years;
 - (E) Three (3) sets of classifiable fingerprints;
 - (F) Three (3) credit references from lending institutions or business firms with whom the subject has established a credit record; and
 - (G) A list of all convictions and pending charges of commission of a felony or misdemeanor in any jurisdiction;
- (5) If the applicant is a corporation, the following information:
- (A) The legal name of the corporation;
 - (B) The state and date of incorporation;
 - (C) The date the corporation qualified to do business in this state;
 - (D) The address of the corporate headquarters, if located outside this state; and
 - (E) The names of two (2) principal corporate officers other than the qualifying agent, and the business address, residence address, and the office held by each in the corporation; and
- (6) Such other information as the commission may reasonably require.
- (b) The application shall be subscribed and sworn to:
- (1) By the applicant, if the applicant is an individual;
 - (2) By each partner, if the applicant is a partnership; or
 - (3) By the qualifying agent, if the applicant is a corporation.
- (c) Any individual signing the application must be at least twenty-one (21) years of age.

SECTION 60. Each individual applicant, or, if the applicant is a partnership, each partner, or, if the applicant is a corporation, the qualifying agent, shall:

- (1) Be at least twenty-one (21) years of age;
- (2) Be a citizen of the United States or a resident alien;
- (3) Not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared the applicant competent;
- (4) Not be suffering from habitual drunkenness or narcotics addiction or dependence;
- (5) Be of good moral character; and
- (6)
 - (A) Possess at least three (3) years of experience as a manager, supervisor, or administrator with a contract security company or proprietary security organization;
 - (B) Possess at least three (3) years of experience satisfactory to the commission, with any federal, United States military, state, county or municipal law enforcement agency; or
 - (C) Pass an examination to be administered at least twice annually by the commission, designed to measure knowledge and competence in the contract security company business.

SECTION 61.

- (a) Upon receipt of an application for a license, the commission shall:
 - (1) Conduct an investigation to determine whether the statements made in the application are true;
 - (2) Compare, or request that the Tennessee bureau of investigation

compare, the fingerprints submitted with the application to fingerprints filed with the bureau; and

(3) Submit the fingerprints to the federal bureau of investigation for a search of its files to determine whether the individual fingerprinted has any recorded convictions.

(b) The commission shall issue a license, in a form which the commission shall prescribe, to qualified applicants upon receipt of a nonrefundable, nonproratable fee in accordance with the schedule promulgated by the commission.

(c) If an application for a license is denied, the commission shall notify the applicant in writing and shall set forth the grounds for denial. If such grounds are subject to correction by the applicant, the notice of denial shall so state and specify a reasonable period of time within which the applicant must make the required correction.

(d) An application shall be accompanied by a notarized statement sworn to by the applicant as to the number of employees in service. Making a false statement shall be punishable by a civil penalty not to exceed one thousand dollars (\$1,000) and assessment of the maximum application fee.

SECTION 62. Every license issued under this part shall be posted conspicuously in the licensee's principal place of business in this state.

SECTION 63. No contract security company license shall be transferable or assignable.

SECTION 64.

(a) A contract security company license, or renewal thereof, shall be valid for a period of two (2) years from the date of issuance. The commission shall provide each licensee with a renewal application form sixty (60) days before the expiration of the license.

(b) The fee for timely renewal of a license shall be in accordance with the schedule promulgated by the commission. A penalty fee as prescribed by the

commission will be assessed on any renewal application postmarked after the expiration date of the license.

(c) Licenses may be renewed up to three (3) months after their expiration by the payment of the renewal fee, plus a penalty established by the commission for each month or portion thereof which elapses before payment is tendered.

(d) A renewal application shall be accompanied by a notarized statement sworn to by the applicant as to the number of employees in service. Making a false statement shall be punishable by a civil penalty of two hundred fifty dollars (\$250) and assessment of the maximum renewal fee.

SECTION 65.

(a) If the qualifying agent of a licensee ceases to perform his duties on a regular basis, the licensee shall:

(1) Within thirty (30) days, notify the commission by certified or registered mail; and

(2) Within three (3) months, obtain a substitute qualifying agent.

(b) The commission may, in its discretion, extend the period for obtaining a substitute qualifying agent for a reasonable time.

SECTION 66. A licensee shall notify the commission in writing within thirty (30) days of:

(1) Any change in the qualifying agent or principal corporate officers identified in its application for license;

(2) Any material change in the information previously furnished or required to be furnished to the commission; or

(3) Any occurrence which could reasonably be expected to affect the licensee's right to a license under this part.

SECTION 67.

(a) If the ownership of a contract security company changes, the new owner, if not already a licensee, may not operate that company more than thirty (30) days after the date of such change of ownership unless, within such thirty-day period, the new owner submits an application for a license. If such application is submitted, the new owner may continue to operate such company until the application has been finally determined by the commission.

(b) For good cause, the commission may extend the period for submitting an application pursuant to subsection (a) for a reasonable time.

SECTION 68. All licensees and employers of private security guards/officers shall retain a certificate of insurance evidencing general liability coverage for the negligent act or acts of the principal insured or his agents operating in the course and scope of employment for bodily injury, personal injury and property damage, with endorsements for personal injury, including false arrest, libel, slander and invasion of privacy, in the minimum amount of three hundred thousand dollars (\$300,000) for bodily or personal injury and one hundred thousand dollars (\$100,000) for property damage. Such certificate shall be available for inspection during normal business hours on request of the commission or duly appointed and identified representative(s). The certificates shall provide that the insurance shall not be modified or canceled without thirty (30) days prior notice to the commission. All persons required to be insured by this part must be insured by a carrier approved in the state in which the insurance has been purchased or in this state.

SECTION 69.

(a) Except as otherwise provided in this part, it is unlawful for any individual to act as an armed or unarmed security guard/officer without having first obtained the appropriate registration card from the commission.

(b) Any individual who holds a valid "armed security guard/officer" registration card may act as an armed or unarmed security guard/officer thereunder.

(c) Any individual who is employed exclusively as an undercover agent is not required to hold a registration card.

SECTION 70.

(a) An application for a registration card shall be filed with the commission on the prescribed form. The application shall be accompanied by nonrefundable and nonproratable fees for both armed and unarmed registrations. The commission shall establish the amounts of the fees in varying amounts for different types of registrations at reasonable levels. The applicant shall furnish the following information:

- (1) Name and current residence address;
- (2) Date and place of birth;
- (3) Social security number;
- (4) Telephone number, if any;
- (5) All residences during the immediate past five (5) years;
- (6) All employment or occupations engaged in during the immediate past five (5) years;
- (7) Three (3) sets of classifiable fingerprints;
- (8) Three (3) head-and-shoulder photographs taken within the last six (6) months;
- (9) A general physical description;
- (10) A list of all convictions and all pending charges of a felony or misdemeanor in any jurisdiction;
- (11) A list of all names used by the applicant other than the name by which he is currently known, with a statement explaining where, when and why such names were used;

(12) A statement whether the applicant has ever been issued or denied a registration card in any jurisdiction and whether such card, if issued, has ever been revoked or suspended;

(13) Type of military discharge; and

(14) Type of security guard/officer registration card, "armed" or "unarmed," applied for. If the applicant seeks an armed registration card, the application shall also include a signed sworn statement that the applicant has had no convictions in any state for a felony.

(b) Any applicant who has already submitted an application for registration or to whom a valid registration card has been issued may submit an application to change registration status from unarmed to armed, or from armed to unarmed status. The commission may establish the amounts of the fees at levels lower than those required for an initial application for registration.

SECTION 71. Each applicant for a registration card shall:

(1) Be at least twenty-one (21) years of age if applying for an armed registration card or at least eighteen (18) years of age if applying for unarmed registration;

(2) Be a citizen of the United States or resident alien;

(3) Not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared the applicant competent;

(4) If convicted in any jurisdiction of any of the crimes listed herein, have completed serving sentence or court ordered probation at least five (5) years prior to application. Conviction of the following crimes shall disqualify an applicant, subject to the conditions stated in this section:

(A) Any felony; or

(B) Any misdemeanor involving:

- (i) Shooting a firearm or other weapon;
 - (ii) Shoplifting;
 - (iii) Assault and battery or other act of violence against persons or property;
 - (iv) Crimes involving the sale, manufacture or distribution of controlled substances, drugs or narcotics;
 - (v) Theft of property; or
 - (vi) Theft of services;
- (5) Not be suffering from habitual drunkenness or narcotics addiction or dependence;
- (6) Not have any disability which, in the opinion of the commission, prevents the applicant from performing the duties of a security guard/officer; and
- (7) Be of good moral character.

SECTION 72.

(a) Before issuance of the registration card, and within thirty (30) days of employment, the applicant shall complete at least four (4) hours of general training administered by a certified trainer, and pass an examination, covering at least the following subjects:

- (1) Orientation: one (1) hour;
- (2) Legal powers and limitations of a security guard/officer: one (1) hour;
- (3) Emergency procedures: one (1) hour;
- (4) General duties: one (1) hour; and
- (5) For applicants for private security officer/guard registration who will carry a club, stun gun, chemical spray, night stick, or other less than lethal device, the commission shall require appropriate training specific to such device by a certified trainer who is certified to instruct for such specific device. It is the

employer's responsibility to keep training records of employees for each specific device. The security officer/guard shall also have in such person's possession a certification card issued by an instructor/trainer who is certified to instruct/train in the legal use of such specific device and shall exhibit such card upon demand by the commission or the commission's duly authorized agent or any full-time law enforcement officer.

(b) If applying for an "armed security guard/officer" registration card, before being issued a firearm, the applicant shall also:

(1) Complete at least eight (8) additional classroom hours of firearms training administered by a certified trainer, and pass an examination, covering at least the following subjects:

(A) Legal limitations of the use of a firearm;

(B) Handling of a firearm; and

(C) Safety and maintenance; and

(2) Complete at least four (4) hours of marksmanship training administered by a certified trainer, and achieve a minimum of seventy percent (70%) on any silhouette target course approved by the commission.

(c) A statement from a certified trainer certifying the satisfactory completion of the training required herein must be submitted to the commission within thirty (30) days of employment.

(d)

(1) The requirements of subsection (a) do not apply to those applicants for registration as "unarmed security guards/officers" who have had not less than four (4) hours of training equivalent to that required in subsection (a) in the year prior to filing the application.

(2) The requirements of subsection (b) do not apply to those applicants for registration as "armed security guards/officers" who have had not less than twelve (12) hours of training equivalent to that required in subsection (b) in the year prior to filing the application.

(3) The requirements of subsections (a) and (b) do not apply to an applicant for registration, who is a sworn law enforcement officer and certified by the police officer standards and training commission. The commission may issue a temporary registration card to such officer upon the commission's verification of the officer's certification.

SECTION 73.

(a) Upon receipt of an application for a registration card, the commission:

(1) Shall conduct an investigation to determine whether the statements made in the application are true;

(2) Shall cause the applicant's fingerprints to be compared with fingerprints filed with the Tennessee bureau of investigation; and

(3) If the application is for an "armed security guard/officer" registration card, shall, or if the application is for an "unarmed security guard/officer" registration card may, submit the applicant's fingerprints and photograph to the federal bureau of investigation for a search of its files to determine whether the applicant has any recorded convictions.

(b) Pending issuance or denial of a registration card (or renewal thereof) by the commission, the applicant may work as an unarmed security guard/officer if a copy of the completed application is kept on the applicant's person while on duty. A qualified applicant may receive a conditional armed registration card pending receipt of the federal bureau of investigation report. The commission shall notify such applicant by postcard that all elements required for the armed registration card have been satisfied

except for receipt of the federal bureau of investigation report. The applicant may use the postcard as a conditional armed registration card until the application is ultimately granted or denied. The postcard shall include an expiration date, which shall be established by the department. If no determination is made on the original application before the expiration of the conditional armed registration card, a second conditional armed registration card may be issued.

(c)

(1) The commission shall issue to a qualified applicant a registration card for armed or unarmed security officer registration, upon receipt of the appropriate payment of fees and a statement from a certified trainer that the training required by this part has been completed. The commission shall establish the appropriate amounts for the fees required by this subsection.

(2) The commission shall issue to a qualified applicant who is a sworn law enforcement officer a registration card for armed or unarmed security officer registration upon receipt of the appropriate payment of fees and verification of the officer's police officer standards and training commission certification.

SECTION 74.

(a) The receipt, application or registration card shall be exhibited upon request of a member of the commission, full-time law enforcement officer, or an employer to verify that the security officer/guard is working pursuant to the requirements of this part.

(b) A security officer/guard shall provide written notice to the commission or the commission's designee and to the licensee or the proprietary security organization which employs the security officer/guard of any arrest and resulting conviction, except for minor traffic violations, within thirty (30) days of such arrest or conviction.

SECTION 75. No registration card shall be transferable or assignable.

SECTION 76.

(a) All registration cards, or renewals thereof, shall expire two (2) years from the date of issuance.

(b) The commission shall establish the fees in reasonable amounts for the timely renewal of armed or unarmed registration cards.

(c) Registrations may be renewed up to three (3) months after their expiration by payment of the renewal fee plus a penalty established by the commission for each month or portion thereof which elapses before payment is tendered.

(d) Every armed security guard/officer shall as a prerequisite for the renewal of such person's registration card:

(1) Complete four (4) hours of refresher training administered by a certified trainer in the subjects listed in Section 72(b)(1) of this act; and

(2) Requalify in the use of a firearm by achieving a minimum of seventy percent (70%) on any silhouette target course approved by the commission.

SECTION 77.

(a) It is unlawful for any person to act as a proprietary security organization without first having notified the commission in writing. The notice shall include:

(1) The full name and business address of the proprietary security organization;

(2) The name and the business and residence addresses of the qualifying manager; and

(3) Such other information as the commission may reasonably require.

(b) Notwithstanding the requirements of subsection (a), a hospital which employs only unarmed security guards/officers may voluntarily elect to submit to the requirements for a proprietary security organization under this part and evidence such election by filing with the commission the notice required in subsection (a). Such notice is revocable by such hospital at any time upon appropriate notice of revocation.

SECTION 78.

(a) A licensee or proprietary security organization shall immediately notify the commission upon receipt of any information relating to a registrant's continuing eligibility to hold a registration card under the provisions of this part.

(b) A licensee or proprietary security organization shall provide written notice to the commission or the commission's designee of any arrest and/or conviction, except for minor traffic violations, within thirty (30) days of being notified or learning of such arrest and/or conviction of:

(1) The licensee or its qualifying agent; or

(2) Any person employed as a security officer/guard by the licensee or the proprietary security organization.

SECTION 79. An armed security officer/guard may carry only such types of firearms as the commission shall, by rules and regulations, prescribe in the performance of such person's duties. A security officer/guard may carry a firearm only if certified to carry such firearm. With proper certification, an unarmed or armed security officer/guard may carry any other type weapon to include, but not be limited to, clubs/batons, stun guns, chemical sprays, or any other tool or weapon that the commission may prescribe.

SECTION 80.

(a) An individual is eligible to become a certified trainer only if the individual:

(1) Is at least twenty-one (21) years of age;

(2) Has at least one (1) year of supervisory experience satisfactory to the commission with a contract security company or proprietary security organization, or with any federal, United States military, state, county or municipal law enforcement agency; and

(3) Is personally qualified to conduct the training required by this part.

(b) A certified trainer may, in such trainer's discretion, instruct personally or use a combination of personal instruction, audio and/or visual training aids.

(c) To assist in the implementation of the training program, the certified trainer may appoint as an instructor any individual who:

(1) Is at least twenty-one (21) years of age; and

(2) Has at least one (1) year of experience with any federal, United States military, state, county or municipal law enforcement agency, or with a contract security company or proprietary security organization.

(d) A certified trainer may be an employee of a contract security company or proprietary security organization.

(e) The certified trainer shall certify to the successful completion of training required by this part and shall submit such certification to the commission prior to issuance of a registration card, or renewal thereof, in the case of armed security guards/officers.

(f) The commission shall charge and collect an annual fee of one hundred fifty dollars (\$150) or in such other amount as set by the commission for certification of a trainer hereunder.

(g) Certifications may be renewed up to three (3) months after their expiration by payment of the renewal fee, plus a penalty established by the commission for each month or portion thereof which elapses before payment is tendered.

SECTION 81. No person, while performing any function of a security guard and patrol service, shall:

(1) Wear or display any badge, insignia, shield, patch or pattern which:

(A) Indicates or tends to indicate that such person is a sworn law enforcement officer;

(B) Contains or includes the word "police" or the equivalent thereof, or

- (C) Is similar in wording to any law enforcement agency in this state; or
- (2) Have or utilize any vehicle or equipment which:

- (A) Displays the words "police," "law enforcement officer," or the equivalent thereof, or

- (B) Has any sign, shield, accessory or insignia that may indicate that such vehicle or equipment belongs to a public law enforcement agency.

SECTION 82. No security guard/officer shall wear any military or police-style uniform, except for rainwear or other foul-weather clothing, unless such uniform has:

- (1) Affixed over the left breast pocket on the outermost garment and on any cap a badge or insignia distinct in design from that utilized by any law enforcement agency in this state, unless the licensed security officer is in plain clothes; and

- (2) Affixed over the right breast pocket on the outermost garment a name plate or tape with the name of the security guard/officer on it, unless the licensed security officer is in plain clothes.

SECTION 83. The commission or the commission's designee may at all reasonable hours conduct inspections/investigations of contract security companies, proprietary security organizations, and security officers/guards to ensure compliance with this part.

SECTION 84.

- (a) The commission may take disciplinary action against a licensee, registrant or applicant, deny an application for a license or registration, or may suspend, revoke, or refuse to issue or renew any certificate, certified trainer license, license or registration card hereunder upon finding that the holder or applicant has:

- (1) Violated any provision of this part, or any rule promulgated hereunder;

- (2) Practiced fraud, deceit or misrepresentation;

- (3) Knowingly and willfully made a material misstatement in connection with an application for a license or registration card;

(4) Been convicted by a court of competent jurisdiction of any felony or of a misdemeanor, if the commission finds that such conviction reflects unfavorably on the fitness for such license or registration card;

(5) Committed any act which would have been cause for refusal to issue such license or registration card had it existed and been known to the commission at the time of issuance;

(6) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public;

(7) Willfully deceived or defrauded a member of the public being protected;

(8) Acted as a contract security company or proprietary security company without a currently valid license;

(9) Acted as an armed or unarmed security officer/guard on a registration card that has expired or without a valid registration card as this part requires;

(10) Violated any disciplinary order of the commission; or

(11) Failed or refused to cooperate with any inspection or investigation to determine compliance with this part or rules and regulations promulgated pursuant thereto.

(b) In addition to or instead of any other lawful disciplinary action under this section, the commission may assess a civil penalty of up to five thousand dollars (\$5,000) for each statute or rule violation.

(c) The commission may assess a civil penalty of up to five thousand dollars (\$5,000) per occurrence upon any person who operates without the proper license or other authorization required.

(d) A license or registration card shall be subject to expiration and renewal during any period in which such license or registration card is suspended.

SECTION 85.

(a)

(1) No licensee or registrant shall be required to obtain any authorization, permit, or license from or to pay any other fee or post a bond in any municipality, county or other political subdivision of this state to engage in any business or activity regulated under this part.

(2) Notwithstanding the provisions of subdivision (a)(1), a municipality, county or other political subdivision of this state may impose:

(A) A bona fide business tax; and

(B) Regulations upon any person who furnishes street patrol services, including a requirement that such person register with a designated agency.

(b) Any person not bonded and sworn as a law enforcement officer, but who is properly registered as an armed security officer/guard as defined herein, may not carry a firearm unless such person first applies for and receives a written directive as provided by this part from the chief law enforcement officer of the county of such person's company's permanent business address. In any county having a metropolitan form of government, the chief of police shall be the chief law enforcement officer. In counties not having a metropolitan form of government the sheriff shall be the chief law enforcement officer. When a security guard/officer is working in another jurisdiction other than the primary county of issuance, the chief law enforcement officer of the county in which such security guard/officer is working shall be notified where the security guard(s)/officer(s) will be assigned and the length of the assignment. This shall be done in writing by the employer of the security guard/officer, unless other arrangements are made with the chief law enforcement officer of the county, within five (5) days of the date of first service. The chief law enforcement officer and such officers/deputies shall

recognize the state-issued security armed card and the primary directive as valid in their jurisdiction while any security guard/officer is traveling to or from a job site and while performing duties while at the job site, or while any representative of a security company, supervisor or officers are traveling to or from job sites, or operating as a street patrol service.

(c) The chief law enforcement officer shall require an individual to present proof of compliance with this part, and shall notify the commission of any objection to the issuance of any written directive within ten (10) days of the date of receiving such request from an applicant for a written directive.

(d) The chief law enforcement officer shall waive the provisions relative to training for those individuals properly and duly registered and in possession of a valid armed registration card. If a valid objection exists, however, proof or information indicating training should not be waived shall be sent to the commission within ten (10) days of such objection, along with a written explanation of the chief law enforcement officer's objection.

(e) Upon compliance with the provisions of this section, the chief law enforcement officer shall issue a written directive authorizing such individual to carry a firearm for the purpose of employment only. Such directive shall be valid in all jurisdictions of the state while the security guard/officer is performing such officer's official duties for a specific employer.

(f) On the front of such directive shall be displayed the name, photograph, thumbprint, physical characteristics and signature of the person to whom the directive is issued, as well as the chief law enforcement officer's identification number, date of issue and signature of the chief law enforcement officer.

(g) On the back of such directive shall be displayed the conditions for the carrying of a firearm, a statement that the bearer of this written directive must have in

such person's possession a valid armed security guard/officer registration card, also the make, model and caliber of any firearms to be carried, and an expiration date which shall coincide with the expiration date of the individual's armed security guard/officer registration card.

(h) The written directive shall be issued in a wallet-sized card and shall be permanently laminated.

(i) The chief law enforcement officer may charge a reasonable fee of not more than twenty-five dollars (\$25.00) for the issuance and administration of the written directive. Upon expiration or change of employment/employer, or revocation or suspension of an individual's armed security guard/officer registration card, the directive shall be immediately returned to the possession of the chief law enforcement officer issuing such directive. The chief law enforcement officer shall at all times reserve the right to refuse to issue, revoke or suspend the authorization to carry a firearm at such time as such officer finds just cause which indicates the person's disqualification to carry a firearm and shall notify the commission within ten (10) days of that decision.

(j) If the chief law enforcement officer denies a written directive, the chief law enforcement officer shall notify the applicant in writing within ten (10) days of such determination. The written notice shall be marked confidential and personal and shall state the specific factual basis for the chief law enforcement officer's determination. It shall include a copy of any reports, record and/or inquiries reviewed or relied upon by the chief law enforcement officer and shall notify the applicant that the applicant has a right to bring an action to challenge the denial of an application.

(k) Anyone intentionally failing to return a written directive within three (3) business days to the issuing chief law enforcement officer commits a Class A misdemeanor.

SECTION 86. The commission may negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed or registered contract security companies or security guards/officers who meet or exceed the qualifications established in this part to operate across state lines under mutually acceptable terms.

SECTION 87. The commission shall provide a copy of this part and any rules promulgated hereunder as may be amended, to:

- (1) Each licensee and proprietary security organization every two (2) years, at no charge; and
- (2) Any other person, upon request, for such reasonable fee as the commission may fix.

SECTION 88.

(a) It is unlawful for any person knowingly to employ as a security guard/officer any individual who does not hold a valid registration card of the appropriate type, except as provided in Section 73(b) of this act.

(b) It is unlawful for any contract security company knowingly to publish any advertisement, letterhead, circular, statement, or phrase of any sort which suggests that such company is a government agency or instrumentality.

(c) It is unlawful for any security guard/officer knowingly to:

- (1) Fail to return immediately on demand, or within twenty-four (24) hours of termination of employment, a firearm issued to him by an employer;
- (2) Fail to return immediately on demand, or within seven (7) days of termination of employment, any uniform, badge, device, insignia, credential, keys or other item of equipment issued to him by an employer;
- (3) Carry a firearm or facsimile of any firearm or item which may leave the impression that such security officer is armed with a firearm of any type in the

performance of the officer's duties if not the holder of a valid "armed security guard/officer" registration card;

(4) Carry a firearm or facsimile of any firearm or item which may leave the impression that such security officer is armed with a firearm of any type in performance of his duties if not authorized to carry such firearm;

(5) Make any statement which would reasonably cause another person to believe that such security guard/officer functions as a sworn law enforcement officer or other government official; or

(6) Divulge to anyone other than the employer, or such persons as the employer may direct or as may be required by law, any information acquired during the employment that may compromise the security of any premises to which the officer has been assigned by such employer.

SECTION 89. Except as otherwise provided in this part, or in any rule or regulation promulgated pursuant thereto, a violation of this part, is a Class A misdemeanor.

SECTION 90. No city, county, or urban county government shall occupy any part of the field of regulation of private protective services unless expressly provided for herein.

SECTION 91. Tennessee Code Annotated, Section 4-29-222(a), is amended by deleting subdivision (11).

SECTION 92. Tennessee Code Annotated, Section 4-29-220(a), is amended by deleting subdivision (48) in its entirety.

SECTION 93. Tennessee Code Annotated, Section 4-29-221(a) is amended by adding a new item thereto, as follows:

() Tennessee security commission, created by Section 7 of this act;

SECTION 94. For the purpose of appointing members to the commission and for the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. Sections 91 through 93 shall take effect July 1, 1998, the public

welfare requiring it. For all other purposes, this act shall take effect January 1, 1999, the public welfare requiring it.